

Comptroller of the Currency, Treasury

§ 25.65

the total deposits of all banking subsidiaries of such foreign bank are the largest on the later of:

(A) July 1, 1966; or

(B) The date on which the foreign bank becomes a bank holding company under the Bank Holding Company Act.

(e) *Host State* means a State in which a covered interstate branch is established or acquired.

(f) *Host state loan-to-deposit ratio* generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including institutions covered under the definition of "bank" in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(g) *Out-of-State bank holding company* means, with respect to any State, a bank holding company whose home State is another State.

(h) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(i) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank's loans to its deposits in a state in which the bank has one or more covered interstate branches, as determined by the OCC.

62 FR 47734, Sept. 10, 1997, as amended at 67 FR 38847, June 6, 2002; 67 FR 46842, July 17, 2002]

§ 25.63 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the OCC will consider whether the bank's statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the OCC will make a credit

needs determination for the bank as provided in § 25.64.

[62 FR 47734, Sept. 10, 1997, as amended at 67 FR 38848, June 6, 2002]

§ 25.64 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank, if any;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The OCC's CRA regulations (subparts A through D of this part) and interpretations of those regulations.

§ 25.65 Sanctions.

(a) *In general.* If the OCC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank has an acceptable

plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the OCC's authority to order the bank to close a covered interstate branch, the OCC will issue to the bank a notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The OCC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

APPENDIX A TO PART 25—RATINGS

(a) *Ratings in general.* (1) In assigning a rating, the OCC evaluates a bank's performance under the applicable performance criteria in this part, in accordance with §§25.21, and 25.28, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests.* (1) *Lending performance rating.* The OCC assigns each bank's lending performance one of the five following ratings.

(i) *Outstanding.* The OCC rates a bank's lending performance "outstanding" if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The OCC rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The OCC rates a bank's lending performance "low satisfactory" if, in general, it demonstrates:

(A) Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) An adequate percentage of its loans are made in its assessment area(s);

(C) An adequate geographic distribution of loans in its assessment area(s);

(D) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The OCC rates a bank's lending performance "needs to improve" if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The OCC rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income

individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The OCC assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The OCC rates a bank's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The OCC rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The OCC rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The OCC rates a bank's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The OCC rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The OCC assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The OCC rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The OCC rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The OCC rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The OCC rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides a limited level of community development services.

(v) *Substantial noncompliance.* The OCC rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose banks.* The OCC assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(i) *Outstanding.* The OCC rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The OCC rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The OCC rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The OCC rates a wholesale or limited purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks evaluated under the small bank performance standards.* The OCC rates the performance of each bank evaluated under the small bank performance standards as follows:

(1) *Eligibility for a satisfactory rating.* The OCC rates a bank's performance "satisfactory" if, in general, the bank demonstrates:

(i) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(ii) A majority of its loans and, as appropriate, other lending-related activities are in its assessment area(s);

(iii) A distribution of loans to and, as appropriate, other lending related-activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area(s);

(iv) A record of taking appropriate action, as warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area(s); and

(v) A reasonable geographic distribution of loans given the bank's assessment area(s).

(2) *Eligibility for an outstanding rating.* A bank that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the OCC considers the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(3) *Needs to improve or substantial noncompliance ratings.* A bank also may receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating—(1) Satisfactory goals.* The OCC approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the bank's assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the OCC will approve those goals as "outstanding."

(3) *Rating.* The OCC assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:

(i) If the bank substantially achieves its plan goals for a satisfactory rating, the OCC will rate the bank's performance under the plan as "satisfactory."

(ii) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the OCC will rate the bank's performance under the plan as "outstanding."

(iii) If the bank fails to meet substantially its plan goals for a satisfactory rating, the OCC will rate the bank as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls

short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in §25.27(f)(4).

[60 FR 22186, May 4, 1995]

APPENDIX B TO PART 25—CRA NOTICE

(a) *Notice for main offices and, if an interstate bank, one branch office in each state.*

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Comptroller of the Currency evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Comptroller also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the Comptroller; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Comptroller publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Deputy Comptroller (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and Deputy Comptroller (address). Your letter, together with any response by us, will be considered by the Comptroller in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Deputy Comptroller. You may also request from the Deputy Comptroller an announcement of our applications covered by the CRA filed with the Comptroller. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

(b) *Notice for branch offices.*

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Comptroller of the Currency evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Comptroller also takes this record into

account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Comptroller, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) A map showing the assessment area containing this branch, which is the area in which the Comptroller evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the Comptroller publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Deputy Comptroller (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and Deputy Comptroller (address). Your letter, together with any response by us, will be considered by the Comptroller in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Deputy Comptroller. You may also request from the Deputy Comptroller an announcement of our applications covered by the CRA filed with the Comptroller. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

[60 FR 22189, May 4, 1995]

PART 26—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

26.1 Authority, purpose, and scope.

26.2 Definitions.